

## UNITED STATES DISTRICT COURT

for the  
District of Nebraska

United States of America

v.

JOSE LOARCA LOPEZ

Case No. 8:19MJ261

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Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 21, 2019 in the county of Douglas in the  
District of Nebraska, the defendant(s) violated:*Code Section**Offense Description*

8 U.S.C. 1326(a) &amp; (b)(1)

On or about May 21, 2019, in the District of Nebraska, the defendant, JOSE LOARCA LOPEZ, an alien, who previously had been excluded, deported, and removed from the United States to Guatemala, was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3), (4), and 557), having expressly consented to defendant's reapplication for admission into the United States. It is further alleged that the defendant, JOSE LOARCA LOPEZ, was excluded

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.  
Complainant's signature

D.O. Luis Frescas, ICE ERO

Printed name and title

☐ Sworn to before me and signed in my presence.☒ Sworn to before me by telephone or other reliable  
electronic means.Date: 5/30/2019City and state: Omaha, Nebraska  
Judge's signature

MICHAEL D. NELSON, U.S. Magistrate Judge

Printed name and title

STATE OF NEBRASKA                     )  
  ) AFFIDAVIT OF LUIS A. FRESCAS  
COUNTY OF DOUGLAS               )

Luis A. Frescas, being first duly sworn, hereby states that:

1. Your affiant is a Deportation Officer for the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), with ten years of federal law enforcement experience, duly appointed according to law and at the time of the events herein was acting in his official capacity.

2. Your affiant has been a Deportation Officer with Immigration and Customs Enforcement since 2013. Your affiant has had occasion to conduct numerous investigations relating to administrative and criminal violations of the Immigration and Nationality Act (INA).

3. Deportation Officers are empowered to interrogate and arrest with or without warrant, any person believed to be an alien in the United States in violation of law, pursuant to Section 287 of the Immigration and Nationality Act (INA) (8 U.S.C. § 1357). This Affidavit is based upon your affiant's personal knowledge and information provided to him by other law enforcement officers involved in this investigation.

4. In his official capacity, your affiant had the opportunity to make inquiries related to Jose LOARCA Lopez (hereinafter “defendant”), who was encountered on May 21, 2019 in Omaha, Nebraska, by Immigration and Customs Enforcement (ICE) officers James Veres and Lanette Hernandez following a traffic stop conducted at the intersection of 2930 S. 24<sup>th</sup> Street, Omaha, Nebraska. At the time of the encounter, defendant was identified as an alien that re-entered the United States illegally. Defendant was transported to the ICE office for processing.

5. Your affiant conducted inquiries including a thorough search of DHS and Federal Bureau of Investigation (FBI) records. The results of the inquiries allowed your affiant to locate and

review the official alien registration file (A 029 375 107), criminal history records (FBI #994445DB1), and court reports documenting defendant's criminal convictions and removals from the United States.

6. On May 21, 2019, the defendant's fingerprints were scanned and submitted into the FBI's Integrated Automated Fingerprint Identification System (IAFIS). The IAFIS system compared defendant's current fingerprint impressions to fingerprint impressions maintained in the database relating to persons who previously had been arrested by DHS or other law enforcement agencies. This comparison revealed the defendant had previously been arrested by DHS. The comparison further revealed the defendant had been convicted of various crimes.

7. As a result of the positive match of fingerprints as described in paragraph 6 above, your Affiant was able to identify and locate a unique DHS alien registration file containing number A 029 375 107 relating to this defendant. Records in that alien registration file, as well as information in various databases and indices maintained by DHS regarding this individual, revealed the defendant had been removed and deported from the United States prior to being found in Nebraska on May 21, 2019. The positive fingerprint match also enabled your affiant to identify the defendant's FBI number 994445DB1.

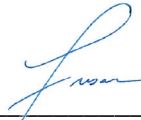
8. Based on IAFIS identification of defendant's prior history, I reviewed defendant's alien registration file. The alien registration file and corresponding searches of DHS indices confirmed that the defendant is an alien who has been removed from the United States on five (5) previous occasions.

9. The defendant's alien registration file contains photographs, fingerprints and immigration documents identifying defendant as a citizen and national of Guatemala, removed from the United States to Guatemala on five (5) occasions.

10. The defendant was removed from the United States to Guatemala on September 22, 2000.

11. The defendant was removed from the United States to Guatemala on March 14, 2005.
12. The defendant was removed from the United States to Guatemala on August 28, 2007.
13. The defendant was removed from the United States to Guatemala on December 14, 2007.
14. The defendant was removed from the United States to Guatemala on June 18, 2008 pursuant to Removal Orders issued on or about July 20, 2000, February 20, 2005, and December 3, 2007.
15. A search of DHS indices failed to produce any record of an application for lawful entry or lawful admission into the United States.
16. Conviction records document defendant's felony conviction on February 18, 2000, in the United States District Court, Western District of Texas, Pecos Division, to wit: Transportation of Illegal Aliens, in violation of the following section of the 8 U.S.C. § 1324(a)(1)(A)(ii), for which he was sentenced to six (6) months incarceration.
17. Affiant believes there is probable cause that Jose LOARCA Lopez is in violation of 8 U.S.C. § 1326(a) & (b)(1), Illegal Reentry of a Removed Alien, in that defendant was ordered removed, physically removed, and then found in the United States without consent of the Attorney General, or the Secretary of the Department of Homeland Security.

Affiant states that all statements contained in this affidavit are true and correct to the best of his knowledge.



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Luis A. Frescas  
Deportation Officer  
U.S. Immigration and Customs Enforcement

Sworn to before me by reliable electronic means:

Date: 05/30/2019

City and State: Omaha, Nebraska



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Michael D. Nelson, U.S. Magistrate Judge